



STATE OF TENNESSEE  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
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**TO: Mortgage Loan Originators and Industrial Loan & Thrift Company Registrants Making Residential Mortgage Loans ("TILT Mortgage Registrants")**  
**From: Mike Igney, Assistant Commissioner/Compliance**  
**Subj: Mortgage Licensing Requirements Update**  
**Date: May 18, 2010**

As previously communicated by the Department, the Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE Act") mandates certain licensing requirements for residential mortgage lenders and those individuals meeting the definition of a mortgage loan originator ("MLO"). The SAFE Act requirements, and the definition of a MLO, were incorporated in Tennessee law by amendments to the Residential Lending, Brokerage and Servicing Act ("Mortgage Act") and the Industrial Loan and Thrift Companies Act ("TILT Act"). Generally speaking, the Acts define a MLO as any individual who for compensation or gain, or in the expectation of compensation or gain: (1) takes a residential mortgage loan application, or (2) offers or negotiates terms of a residential mortgage loan [with a consumer].

The purpose of this memorandum is to update licensees and TILT Mortgage Registrants regarding mortgage licensing requirements, particularly in consideration of the approaching education and testing requirements deadline of **July 30, 2010** as follows:

**FOR MLOS AND TILT MORTGAGE REGISTRANTS**

- **Criminal Background Check ("CBC")**

As previously communicated, all MLOs are required to authorize a fingerprint-based background check through NMLS and submit fingerprints to NMLS for purposes of a FBI national criminal history background check. **This requirement applies to all MLOs regardless of whether they have previously submitted fingerprints directly to the Department.** In order to renew a MLO license in Tennessee for 2011, **every MLO must submit to a CBC through NMLS AND submit fingerprints to NMLS by December 31, 2010.**

- **Education and Testing**

- **Pre-Licensure Education**

All MLOs must complete twenty (20) hours of NMLS-approved pre-licensure education. For Tennessee MLO licensure, all twenty (20) hours must be completed by **July 30, 2010**. MLOs who are currently licensed in Tennessee must complete all twenty (20) hours by July 30, 2010 for their MLO licenses to remain valid. After July 30, 2010, no MLO license will be issued or remain valid unless the applicant has completed the requisite twenty (20) hours of pre-licensure education and met the other licensing requirements.

- Continuing Education Requirements  
Beginning in 2011, all licensed MLOs will be required to annually complete eight (8) hours of NMLS-approved continuing education in order to renew their MLO license for the following calendar year.
- SAFE Act Mortgage Loan Originator Test  
All MLOs must pass the SAFE Mortgage Loan Originator Test, which is comprised of two (2) components: a National Component and a State Component. MLOs must pass each component with a score of 75% or higher. Each component may be taken separately; however, **both components must be passed by July 30, 2010**. After July 30, 2010, no MLO license will be issued or remain valid unless the applicant has passed both components of the SAFE Act MLO test and met the other licensing requirements.
- Credit Report  
Under the SAFE Act, a MLO is required to provide NMLS with authorization to obtain his/her credit report through the system. Reportedly, NMLS will have the functionality to pull credit reports in October 2010. Once the NMLS functionality is “live,” a Tennessee licensed MLO must authorize a credit report pull by December 31, 2010 in order to renew the MLO license for 2011. NMLS will provide the credit report to the state jurisdiction(s) in which a MLO is licensed or making application for a license. The Department will utilize the credit report in its determination of whether, pursuant to TENN. CODE ANN. § 45-13-302(c)(3), "the applicant has demonstrated the financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of this chapter. An individual has shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition."

**It is important to note that any licensed MLO in Tennessee must meet the aforementioned requirements by the deadlines specified in order to retain or renew a MLO license. If a MLO does not satisfy the requirements by the deadlines noted, his/her license will expire by operation of law.**

- Company Sponsorship of Licensed Mortgage Loan Originators  
A validly issued MLO license will be considered “inactive” until the licensed MLO has been “sponsored” by a company licensed in Tennessee as a mortgage lender, broker and/or servicer or a TILT Mortgage Registrant. A MLO can only be “sponsored” by one (1) company at a time, and a sponsored MLO can work only for the sponsoring company (and not for affiliates, subsidiaries, etc.). Sponsorship is accomplished through NMLS by filing a sponsorship request and paying the required sponsorship fee. For a TILT Mortgage Registrant that has not elected to create a company record in NMLS, sponsorship must be accomplished directly to the Department outside of the NMLS.

Note: A new sponsorship request is required each time a MLO changes employers (sponsoring company). A MLO license is considered "inactive" during any period of time between sponsoring employers, in which case the MLO is unauthorized to engage in loan origination activities.

## **FOR TILT MORTGAGE REGISTRANTS**

- Scaled Surety Bond for all Companies  
The Acts require the Department to establish a mechanism by which the surety bond posted by mortgage lenders and brokers, and by TILT Mortgage Registrants, will be annually adjusted to

reflect the dollar amount of loans originated by the company. As such, the Department filed proposed rules ("Proposed Rules") with the Secretary of State to address the surety bond requirements relating to certificate of registration renewals for TILT Mortgage Registrants. The Proposed Rules are set to become effective on May 31, 2010 (05/31/10). Pursuant to TENN. CODE ANN. § 45-5-501(c), a copy of the Proposed Rules is enclosed for review.

Proposed rule 0180-32-.02(1) computes a TILT Mortgage Registrant's surety bond amount for renewal applications via a three tier system based on the dollar amount of Tennessee residential loans the registrant originated in the preceding calendar year.<sup>1</sup> Accordingly, the required bond amount for a TILT Mortgage Registrant filing a renewal application will vary depending on the aggregate dollar volume of loans it originated in the previous year.

**PLEASE TAKE NOTICE**, that should the Proposed Rules become effective on May 31, 2010 (05/31/10), a TILT Mortgage Registrant that originated \$50,000,000 or more in residential mortgage loans in calendar year 2009 will have to maintain a surety bond in the amount of \$300,000 (versus the current requirement of a surety bond in the amount of \$200,000) as a condition of renewal of its certificate of registration. As such, TILT Mortgage Registrants that originated \$50,000,000 or more in residential mortgage loans in the year 2009 should be prepared to come into compliance with the Proposed Rules if they become effective as scheduled. Specific questions regarding surety bonds may be directed to Carl Scott, Director of Licensing, (615) 532-1002.

## **QUESTIONS**

Please visit the TDFI website, <http://www.tennessee.gov/tdfi>, for additional information (including the amended Mortgage Act and the SAFE Act). You are encouraged to check back regularly for updated information. You may also email [askmortgage.licensing@tn.gov](mailto:askmortgage.licensing@tn.gov) with Tennessee-specific licensing questions. Please direct any NMLS-specific questions, such as system operation or functionality, to the NMLS call center at (240) 386-4444, or visit the NMLS website at [www.stateregulatoryregistry.org/nmls](http://www.stateregulatoryregistry.org/nmls).

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<sup>1</sup> For a TILT Mortgage Registrant filing a renewal application in a calendar year in which the certificate of registration was issued, or in a calendar year in which the certificate of registration was issued in the immediately preceding calendar year, proposed rule 0180-32-.02(2) requires a fixed surety bond in the amount of \$200,000.

Chapter 0180-32  
Rules Pertaining to Industrial Loan and Thrift Companies

New Rules

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0180-32-.02     Surety Bond Requirements.

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- (1) As a condition of renewal of a certificate of registration for a registrant that makes residential mortgage loans, the registrant shall file a surety bond in a form approved by the commissioner, providing coverage for each of its mortgage loan originators in an amount reflecting the dollar amount of Tennessee residential mortgage loans originated by the registrant in the calendar year immediately preceding the calendar year in which the renewal application is filed, as follows:
  - (a) Less than \$10,000,000 in loans – bond amount of \$100,000;
  - (b) \$10,000,000 or more in loans, but less than \$50,000,000 – bond amount of \$200,000; or
  - (c) \$50,000,000 or more in loans – bond amount of \$300,000.
- (2) If the renewal application is being filed in a calendar year in which the certificate of registration was issued, or in a year in which the certificate of registration was issued in the immediately preceding calendar year, the registrant shall file as a condition of renewal a surety bond providing coverage for each of its mortgage loan originators in the amount of \$200,000.

Authority: T.C.A. §§ 45-1-107(h), 45-5-202(c), 45-5-203(b), 45-5-501(b).